

ASSEMBLY BILL

No. 2669

Introduced by Assembly Member Campos

February 19, 2016

An act to amend Section 214 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2669, as introduced, Campos. Property taxation: welfare exemption.

Existing property tax law, in accordance with the California Constitution, provides for a “welfare exemption” for property used exclusively for religious, hospital, scientific, or charitable purposes and that is owned or operated by certain types of nonprofit entities, if certain qualifying criteria are met.

This bill would make nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 214 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 214. (a) Property used exclusively for religious, hospital,
- 4 scientific, or charitable purposes owned and operated by
- 5 community chests, funds, foundations, limited liability companies,
- 6 or corporations organized and operated for religious, hospital,
- 7 scientific, or charitable purposes is exempt from taxation, including
- 8 ad valorem taxes to pay the interest and redemption charges on

1 any indebtedness approved by the voters prior to July 1, 1978, or
2 any bonded indebtedness for the acquisition or improvement of
3 real property approved on or after July 1, 1978, by two-thirds of
4 the votes cast by the voters voting on the proposition, ~~if~~ *if all of*
5 *the following conditions are met:*

6 (1) The owner is not organized or operated for profit. However,
7 in the case of hospitals, the organization shall not be deemed to
8 be organized or operated for profit if, during the immediately
9 preceding fiscal year, operating revenues, exclusive of gifts,
10 endowments and grants-in-aid, did not exceed operating expenses
11 by an amount equivalent to 10 percent of those operating expenses.
12 As used herein, operating expenses include depreciation based on
13 cost of replacement and amortization of, and interest on,
14 indebtedness.

15 (2) No part of the net earnings of the owner inures to the benefit
16 of any private shareholder or individual.

17 (3) The property is used for the actual operation of the exempt
18 activity, and does not exceed an amount of property reasonably
19 necessary to the accomplishment of the exempt purpose.

20 (A) For the purposes of determining whether the property is
21 used for the actual operation of the exempt activity, consideration
22 shall not be given to use of the property for either or both of the
23 following described activities if that use is occasional:

24 (i) The owner conducts fundraising activities on the property
25 and the proceeds derived from those activities are not unrelated
26 business taxable income, as defined in Section 512 of the Internal
27 Revenue Code, of the owner and are used to further the exempt
28 activity of the owner.

29 (ii) The owner permits any other organization that meets all of
30 the requirements of this subdivision, other than ownership of the
31 property, to conduct fundraising activities on the property and the
32 proceeds derived from those activities are not unrelated business
33 taxable income, as defined in Section 512 of the Internal Revenue
34 Code, of the organization, are not subject to the tax on unrelated
35 business taxable income that is imposed by Section 511 of the
36 Internal Revenue Code, and are used to further the exempt activity
37 of the organization.

38 (B) For purposes of subparagraph (A):

39 (i) "Occasional use" means use of the property on an irregular
40 or intermittent basis by the qualifying owner or any other qualifying

1 organization described in clause (ii) of subparagraph (A) that is
2 incidental to the primary activities of the owner or the other
3 organization.

4 (ii) “Fundraising activities” means both activities involving the
5 direct solicitation of money or other property and the anticipated
6 exchange of goods or services for money between the soliciting
7 organization and the organization or person solicited.

8 (C) Subparagraph (A) shall have no application in determining
9 whether paragraph (3) has been satisfied unless the owner of the
10 property and any other organization using the property as provided
11 in subparagraph (A) have filed with the assessor a valid
12 organizational clearance certificate issued pursuant to Section
13 254.6.

14 (D) For the purposes of determining whether the property is
15 used for the actual operation of the exempt activity, consideration
16 shall not be given to the use of the property for meetings conducted
17 by any other organization if the meetings are incidental to the other
18 organization’s primary activities, are not fundraising meetings or
19 activities as defined in subparagraph (B), are held no more than
20 once per week, and the other organization and its use of the
21 property meet all other requirements of paragraphs (1) to (5),
22 inclusive, of this subdivision. The owner or the other organization
23 also shall file with the assessor a copy of a valid, unrevoked letter
24 or ruling from the Internal Revenue Service or the Franchise Tax
25 Board stating that the other organization, or the national
26 organization of which it is a local chapter or affiliate, qualifies as
27 an exempt organization under Section 501(c)(3) or 501(c)(4) of
28 the Internal Revenue Code or Section 23701d, 23701f, or 23701w.

29 (E) Nothing in subparagraph (A), (B), (C), or (D) shall be
30 construed to either enlarge or restrict the exemption provided for
31 in subdivision (b) of Section 4 and Section 5 of Article XIII of the
32 California Constitution and this section.

33 (4) The property is not used or operated by the owner or by any
34 other person so as to benefit any officer, trustee, director,
35 shareholder, member, employee, contributor, or bondholder of the
36 owner or operator, or any other person, through the distribution
37 of profits, payment of excessive charges or compensations, or the
38 more advantageous pursuit of their business or profession.

39 (5) The property is not used by the owner or members thereof
40 for fraternal or lodge purposes, or for social club purposes except

1 where that use is clearly incidental to a primary religious, hospital,
2 scientific, or charitable purpose.

3 (6) The property is irrevocably dedicated to religious, charitable,
4 scientific, or hospital purposes and upon the liquidation,
5 dissolution, or abandonment of the owner will not inure to the
6 benefit of any private person except a fund, foundation, or
7 corporation organized and operated for religious, hospital,
8 scientific, or charitable purposes.

9 (7) The property, if used exclusively for scientific purposes, is
10 used by a foundation or institution that, in addition to complying
11 with the foregoing requirements for the exemption of charitable
12 organizations in general, has been chartered by the Congress of
13 the United States (except that this requirement shall not apply
14 when the scientific purposes are medical research), and whose
15 objects are the encouragement or conduct of scientific
16 investigation, research, and discovery for the benefit of the
17 community at large.

18 The exemption provided for herein shall be known as the
19 “welfare exemption.” This exemption shall be in addition to any
20 other exemption now provided by law, and the existence of the
21 exemption provision in paragraph (2) of subdivision (a) of Section
22 202 shall not preclude the exemption under this section for museum
23 or library property. Except as provided in subdivision (e), this
24 section shall not be construed to enlarge the college exemption.

25 (b) Property used exclusively for school purposes of less than
26 collegiate grade and owned and operated by religious, hospital, or
27 charitable funds, foundations, limited liability companies, or
28 corporations, which property and funds, foundations, limited
29 liability companies, or corporations meet all of the requirements
30 of subdivision (a), shall be deemed to be within the exemption
31 provided for in subdivision (b) of Section 4 and Section 5 of Article
32 XIII of the California Constitution and this section.

33 (c) Property used exclusively for nursery school purposes and
34 owned and operated by religious, hospital, or charitable funds,
35 foundations, limited liability companies, or corporations, which
36 property and funds, foundations, limited liability companies, or
37 corporations meet all the requirements of subdivision (a), shall be
38 deemed to be within the exemption provided for in subdivision
39 (b) of Section 4 and Section 5 of Article XIII of the California
40 Constitution and this section.

(d) Property used exclusively for a noncommercial educational FM broadcast station or an educational television station, and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations meeting all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

(e) Property used exclusively for religious, charitable, scientific, or hospital purposes and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations or educational institutions of collegiate grade, as defined in Section 203, which property and funds, foundations, limited liability companies, corporations, or educational institutions meet all of the requirements of subdivision (a), shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section. As to educational institutions of collegiate grade, as defined in Section 203, the requirements of paragraph (6) of subdivision (a) shall be deemed to be met if both of the following are met:

(1) The property of the educational institution is irrevocably dedicated in its articles of incorporation to charitable and educational purposes, to religious and educational purposes, or to educational purposes.

(2) The articles of incorporation of the educational institution provide for distribution of its property upon its liquidation, dissolution, or abandonment to a fund, foundation, or corporation organized and operated for religious, hospital, scientific, charitable, or educational purposes meeting the requirements for exemption provided by Section 203 or this section.

(f) Property used exclusively for housing and related facilities for elderly or handicapped families and financed by, including, but not limited to, the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, limited liability companies, or corporations meeting

1 all of the requirements of this section shall be deemed to be within
2 the exemption provided for in subdivision (b) of Section 4 and
3 Section 5 of Article XIII of the California Constitution and this
4 section.

5 The amendment of this paragraph made by Chapter 1102 of the
6 Statutes of 1984 does not constitute a change in, but is declaratory
7 of, existing law. However, no refund of property taxes shall be
8 required as a result of this amendment for any fiscal year prior to
9 the fiscal year in which the amendment takes effect.

10 Property used exclusively for housing and related facilities for
11 elderly or handicapped families at which supplemental care or
12 services designed to meet the special needs of elderly or
13 handicapped residents are not provided, or that is not financed by
14 the federal government pursuant to Section 202 of Public Law
15 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public
16 Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law
17 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law
18 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption
19 pursuant to this subdivision unless the property is used for housing
20 and related facilities for low- and moderate-income elderly or
21 handicapped families. Property that would otherwise be exempt
22 pursuant to this subdivision, except that it includes some housing
23 and related facilities for other than low- or moderate-income elderly
24 or handicapped families, shall be entitled to a partial exemption.
25 The partial exemption shall be equal to that percentage of the value
26 of the property that is equal to the percentage that the number of
27 low- and moderate-income elderly and handicapped families
28 represents of the total number of families occupying the property.

29 As used in this subdivision, “low and moderate income” has the
30 same meaning as the term “persons and families of low or moderate
31 income” as defined by Section 50093 of the Health and Safety
32 Code.

33 (g) (1) Property used exclusively for rental housing and related
34 facilities and owned and operated by religious, hospital, scientific,
35 or charitable funds, foundations, limited liability companies, or
36 corporations, including limited partnerships in which the managing
37 general partner is an eligible nonprofit corporation or eligible
38 limited liability company, meeting all of the requirements of this
39 section, or by veterans’ organizations, as described in Section
40 215.1, meeting all the requirements of paragraphs (1) to (7),

1 inclusive, of subdivision (a), shall be deemed to be within the
2 exemption provided for in subdivision (b) of Section 4 and Section
3 5 of Article XIII of the California Constitution and this section
4 and shall be entitled to a partial exemption equal to that percentage
5 of the value of the property that is equal to the percentage that the
6 number of units serving lower income households represents of
7 the total number of residential units in any year in which any of
8 the following criteria applies:

9 (A) The acquisition, rehabilitation, development, or operation
10 of the property, or any combination of these factors, is financed
11 with tax-exempt mortgage revenue bonds or general obligation
12 bonds, or is financed by local, state, or federal loans or grants and
13 the rents of the occupants who are lower income households do
14 not exceed those prescribed by deed restrictions or regulatory
15 agreements pursuant to the terms of the financing or financial
16 assistance.

17 (B) The owner of the property is eligible for and receives
18 low-income housing tax credits pursuant to Section 42 of the
19 Internal Revenue Code of 1986, as added by Public Law 99-514.

20 (C) In the case of a claim, other than a claim with respect to
21 property owned by a limited partnership in which the managing
22 general partner is an eligible nonprofit corporation, that is filed
23 for the 2000–01 fiscal year or any fiscal year thereafter, 90 percent
24 or more of the occupants of the property are lower income
25 households whose rent does not exceed the rent prescribed by
26 Section 50053 of the Health and Safety Code. The total exemption
27 amount allowed under this subdivision to a taxpayer, with respect
28 to a single property or multiple properties for any fiscal year on
29 the sole basis of the application of this subparagraph, may not
30 exceed twenty thousand dollars (\$20,000) of tax.

31 (D) (i) The property was previously purchased and owned by
32 the Department of Transportation pursuant to a consent decree
33 requiring housing mitigation measures relating to the construction
34 of a freeway and is now solely owned by an organization that
35 qualifies as an exempt organization under Section 501(c)(3) of the
36 Internal Revenue Code.

37 (ii) This subparagraph shall not apply to property owned by a
38 limited partnership in which the managing partner is an eligible
39 nonprofit corporation.

(2) In order to be eligible for the exemption provided by this subdivision, the owner of the property shall do both of the following:

(A) (i) For any claim filed for the 2000–01 fiscal year or any fiscal year thereafter, certify and ensure, subject to the limitation in clause (ii), that there is an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document that restricts the project’s usage and that provides that the units designated for use by lower income households are continuously available to or occupied by lower income households at rents that do not exceed those prescribed by Section 50053 of the Health and Safety Code, or, to the extent that the terms of federal, state, or local financing or financial assistance conflicts with Section 50053, rents that do not exceed those prescribed by the terms of the financing or financial assistance.

(ii) In the case of a limited partnership in which the managing general partner is an eligible nonprofit corporation, the restriction and provision specified in clause (i) shall be contained in an enforceable and verifiable agreement with a public agency, or in a recorded deed restriction to which the limited partnership certifies.

(B) Certify that the funds that would have been necessary to pay property taxes are used to maintain the affordability of, or reduce rents otherwise necessary for, the units occupied by lower income households.

(3) As used in this subdivision:

(A) “Lower income households” has the same meaning as the term “lower income households” as defined by Section 50079.5 of the Health and Safety Code.

(B) “Related facilities” means any manager’s units and any and all common area spaces that are included within the physical boundaries of the rental housing development, including, but not limited to, common area space, walkways, balconies, patios, clubhouse space, meeting rooms, laundry facilities and parking areas, except any portions of the overall development that are nonexempt commercial space.

(C) “Units serving lower income households” shall mean units that are occupied by lower income households at an affordable rent, as defined in Section 50053 of the Health and Safety Code or, to the extent that the terms of federal, state, or local financing

1 or financial assistance conflicts with Section 50053, rents that do
2 not exceed those prescribed by the terms of the financing or
3 financial assistance. Units reserved for lower income households
4 at an affordable rent that are temporarily vacant due to tenant
5 turnover or repairs shall be counted as occupied.

6 (h) Property used exclusively for an emergency or temporary
7 shelter and related facilities for homeless persons and families and
8 owned and operated by religious, hospital, scientific, or charitable
9 funds, foundations, limited liability companies, or corporations
10 meeting all of the requirements of this section shall be deemed to
11 be within the exemption provided for in subdivision (b) of Section
12 4 and Section 5 of Article XIII of the California Constitution and
13 this section. Property that otherwise would be exempt pursuant to
14 this subdivision, except that it includes housing and related
15 facilities for other than an emergency or temporary shelter, shall
16 be entitled to a partial exemption.

17 As used in this subdivision, “emergency or temporary shelter”
18 means a facility that would be eligible for funding pursuant to
19 Chapter ~~11~~ 11.5 (commencing with Section 50800) of Part 2 of
20 Division 31 of the Health and Safety Code.

21 (i) Property used exclusively for housing and related facilities
22 for employees of religious, charitable, scientific, or hospital
23 organizations that meet all the requirements of subdivision (a) and
24 owned and operated by funds, foundations, limited liability
25 companies, or corporations that meet all the requirements of
26 subdivision (a) shall be deemed to be within the exemption
27 provided for in subdivision (b) of Section 4 and Section 5 of Article
28 XIII of the California Constitution and this section to the extent
29 the residential use of the property is institutionally necessary for
30 the operation of the organization.

31 (j) For purposes of this section, charitable purposes include
32 educational purposes. For purposes of this subdivision,
33 “educational purposes” means those educational purposes and
34 activities for the benefit of the community as a whole or an
35 unascertainable and indefinite portion thereof, and do not include
36 those educational purposes and activities that are primarily for the
37 benefit of an organization’s shareholders. Educational activities
38 include the study of relevant information, the dissemination of that
39 information to interested members of the general public, and the
40 participation of interested members of the general public.

- 1 (k) In the case of property used exclusively for the exempt
2 purposes specified in this section, owned and operated by limited
3 liability companies that are organized and operated for those
4 purposes, the State Board of Equalization shall adopt regulations
5 to specify the ownership, organizational, and operational
6 requirements for those companies to qualify for the exemption
7 provided by this section.
- 8 (l) The amendments made by Chapter 354 of the Statutes of
9 2004 shall apply with respect to lien dates occurring on and after
10 January 1, 2005.